

DAVIS+GILBERT LLP

1675 Broadway
New York, NY 10019
T: (212) 468-4800

Hearing Date: September 20, 2023

Hearing Time: 10:00 a.m. (ET)

Attorneys for Defendants

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the
Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities
LLC and the Chapter 7 Estate of Bernard L.
Madoff,

Plaintiff,

v.

NATIXIS FINANCIAL PRODUCTS LLC and
BLOOM ASSET HOLDINGS FUND,

Defendants.

Adv. Pro. No. 23-01017 (CGM)

**NOTICE OF JOINDER IN OBJECTING DEFENDANTS' OPPOSITION
TO TRUSTEE'S MOTION FOR ORDER AMENDING ORDER
APPOINTING A DISCOVERY ARBITRATOR PURSUANT TO
BANKRUPTCY RULE 9019(c) AND GENERAL ORDER M-390**

Defendants Natixis Financial Products LLC and Bloom Asset Holdings Fund (together, “Defendants”), in Adv. Pro. No. 23-01017 (CGM), hereby object to the *Motion for Order Amending Order Appointing a Discovery Arbitrator Pursuant to Bankruptcy Rule 9019(c) and General Order M-390*, filed in Adv. Pro. No. 08-01789 (CGM), ECF Nos. 23449, 23454 (“Trustee’s Motion”), by Irving H. Picard, as trustee for the liquidation of Bernard L. Madoff Investment Securities LLC and the estate of Bernard L. Madoff (“Trustee”), and join in all aspects of the Opposition to the Trustee’s Motion, ECF No. 23516, filed by Objecting Defendants, except for ¶¶ 8 (second sentence), 19 (third sentence), 32-38 and the final sentence of the *Conclusion* paragraph.

Defendants are parties to one of the adversary proceedings, referred to by the Trustee as the Subsequent Transfer Cases, in which a Case Management Plan has not yet been entered, and as such, the fallback position advocated by Objecting Defendants in their Opposition – that, at a minimum, the Court deny the Trustee’s Motion only with respect to adversary proceedings with previously entered Case Management Plans that (1) provide for mandatory discovery arbitration and (2) cite the existing Order Appointing Discovery Arbitrator¹ – would not be adequate to protect the rights of Defendants, which are in all other relevant respects identically situated to Objecting Defendants.

Because the Trustee has failed to justify the modification to the Order Appointing Discovery Arbitrator he seeks, under either Rule 60(b)(5) or Rule 60(b)(6), the Trustee’s Motion should be denied in its entirety as to all defendants who are parties to the Subsequent Transfer Cases.

¹ Order Appointing a Discovery Arbitrator Pursuant to Bankruptcy Rule 9019(c) and General Order M-390, *Secs. Inv’r Prot. Corp. v. Bernard L. Madoff Inv. Secs.*, No. 08-01789 (CGM) (Bankr. S.D.N.Y. Oct. 4, 2016), ECF No. 14227 (“Order Appointing Discovery Arbitrator”).

Dated: September 6, 2023
New York, New York

DAVIS+GILBERT LLP

By: /s/ Joseph Cioffi
Joseph Cioffi
H. Seiji Newman
Bruce M. Ginsberg
Adam M. Levy
Christine DeVito
1675 Broadway
New York, NY 10019
T: (212) 468-4800
jcioffi@dglaw.com
bginsberg@dglaw.com
hsnewman@dglaw.com
alevy@dglaw.com
cdevito@dglaw.com

*Attorneys for Defendants Natixis Financial Products
LLC (as successor in interest to Natixis Financial
Products Inc.) and Bloom Asset Holdings Fund*